

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee on
Finance (JC-Fi)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

➤ **

➤ Committee Hearings ... CH

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Hearing Records ... HR

➤ **

➤ Miscellaneous ... Misc

➤ 97hrJC-Fi_Misc_pt60_LFB

➤ Record of Comm. Proceedings ... RCP

➤ **

Ethics Board

(LFB Budget Summary Document: Page 225)

LFB Summary Item for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
3	Ethics Board Funding Shift (Paper #385)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Ethics Board Funding Shift (Ethics Board)

[LFB Summary: Page 225, #3]

CURRENT LAW

The Board is funded 75% from PR (primarily fees assessed on lobbyists and their principals) and 25% from GPR. Base level funding for the Board totals \$111,100 GPR and \$340,300 PR with 1.75 GPR and 4.75 PR positions.

GOVERNOR

Shift \$75,000 annually and 1.25 positions from PR to GPR. This shift in funding sources would change the total funding split in 1997-99, based on the Governor's recommended total funding, to 59% PR and 41% GPR.

DISCUSSION POINTS

1. Under current law, the Board assesses the following biennial fees [for the two-year calendar period beginning January 1 of each odd-numbered year] for lobbying-related activities: (a) \$250 for a lobbyist license for a lobbyist who represents a single principal; (b) \$400 for a lobbyist license for a lobbyist who acts on behalf of two or more principals; (c) \$375 for the filing by a principal of a registration statement with the Board indicating the principal's involvement in lobbying activities; and (d) \$125 for the filing by a principal (or lobbyist on behalf of the principal) of a statement of authorization for each lobbyist to lobby on the

principal's behalf. From these revenues, 90% is used to support the Board's operations and 10% is deposited in the general fund.

2. In his 1995-97 biennial budget, the Governor adopted an Ethic Board's request, submitted in response to a requirement that state agencies provide options for meeting 5% and 10% base budget cuts, to increase the then existing level of lobbying fees to allow continuation of the Board's base budget at the same level while reducing the amount of GPR funding provided for such purposes. The Legislature concurred with the increased fees as recommended by the Governor, but modified the Governor's recommendation by using all of the increased fee amounts estimated to be raised by the increases to offset GPR funding for the agency. The result of this was to place overall funding for the Board at 75% PR and 25% GPR in 1996-97.

3. In its 1997-99 budget submittal, the Board requested additional GPR funding for the agency to set the overall funding split at 45% GPR and 55% PR. In addition, the Board requested that it no longer be required to deposit 10% of the fees it collects to the general fund. The agency requested this because it estimated that if the current funding split (25% GPR and 75% PR) continued, a deficit of \$129,600 in its PR account balance would result at the end of the 1997-99 biennium based on its projection of revenue to be received lobbying fees at the current fee schedule levels.

4. In general, PR or partially-PR funded agencies, as a part of the biennial budget process, request fees as necessary to sustain the PR-funded portions of their budgets. However, the Ethics Board, in its budget request, argued against any increase in existing fee levels because it felt the fees were quite high already compared to other states. Further, the Board argued that fees were supporting a disproportional share of the agency's total budget and noted that in the five years prior to 1996-97, the funding split for the Board had been set at approximately 50% GPR funding and 50% PR funding. The Board argued that lobbying fees should only be used to support the portion of the Board's budget attributed to the costs of administering the lobbying program which it estimates at 50% of the agency's total budget. However, as noted above, the Board's actual funding request was to set the rate at 45% GPR funding and 55% PR funding and to allow the Board to retain 100% of the fees it collects.

5. In reviewing the Board's estimate that its staff workload is allocated 50/50 between the Board's ethics code enforcement responsibilities and its lobbying regulation responsibilities, the agency was asked to provide workload data which would substantiate that measure of staff activity. In response, the Board provided an assessment that staff activities are split 51% to lobbying-related functions and 49% to ethics related functions. This data was based on the individual staff members' position descriptions statements which are required for each position in the classified service. These statements describe the agency's overall responsibilities of each position in terms of the agency's operations and assign estimates of the percent of time an employee is anticipated to be spending on each of the duties enumerated in the description.

6. What these descriptions do not provide is any data related to day-to-day workload activities of the agency. There is no data that could be related to the number of hours spent by staff specifically on lobbying regulation activities versus activities relating to enforcement of the ethics code. For example, any measure of the staff hours or percent of staff activity required for examination of ethics statements versus lobbying expenditure reports or of the amount of staff time spent on responding to inquiries related to the ethics code compared to inquiries related to the regulation of lobbyists is not available. Rather, the position descriptions relate to the amount of time expected to be spent by each staff member on the Board's mission in relation to the nine identified goals of the agency. While some goals are specific to the ethics code or lobbying regulation, a number of the goals relate equally to ethics code and lobbying regulation activities of the Board. In these cases, the agency assumed that a position's duties with regard to that goal were split 50/50.

7. Since specific workload data is not available, the Committee could choose to assume the 50/50 split suggested by the agency or select some other percentage split.

8. The Governor's recommendations included a transfer of \$75,000 annually and 1.25 positions from PR to GPR to restore solvency in the agency's regulation of lobbying fee appropriation, but retained the requirement that 10% of all fee collections be deposited in the general fund. The overall funding split for the agency under the Governor's recommended budget would be 59% PR and 41% GPR.

9. The issue before the Committee is whether fees should be increased to offset any projected shortage of funding or whether there should be an increase in the GPR share of total funding for the agency.

10. The following table shows the fee amounts, as set by statute, charged by the Board since 1989 when the regulation of lobbyists and their employers was transferred from the Office of the Secretary of State to the Board. Under 1991 Act 39, license fees were increased by 300%, registration fees by 200% and authorizations by 900%. Under 1995 Act 27, all fees were increased by 25%, and a new license was established for lobbyists who act on behalf of two or more principals.

Fee History

	<u>1989 Act 338</u>	<u>1991 Act 39</u>	<u>1995 Act 27</u>
Single Client Lobbyist License	\$50	\$200	\$250
Multiple Client Lobbyist License	n/a	n/a	400
Registration of Principal	100	300	375
Lobbyist Authorization by Principal	10	100	125

11. Based on the Governor's recommendation, DOA estimated revenue collections and budgeted expenditures for the Board for 1997-99 and 1999-2001. These estimates project that the PR account balance at the end of 1998-99 would be slightly negative (-\$3,700). Further, there would be a deficit at the end of the next biennium of \$71,800. This indicates that while no fee increase was provided under the Governor's recommendation in 1997-99 because of the increase in the GPR share of funding, a fee increase would presumably be required in the following biennium under the Governor's funding levels.

12. If the total budget levels as recommended by the Governor were to be approved by the Committee but the funding split between GPR and PR were to be retained at the current 25% GPR and 75% PR split, the following PR account balance would be projected:

75% Program Revenue Funding with No Fee Increase

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>
<u>Revenue</u>				
Opening Balance	\$62,800	-\$229,800	-\$150,000	-\$454,300
Lobbying Fees Retained	<u>64,500</u>	<u>442,800</u>	<u>64,500</u>	<u>442,800</u>
Total Revenues	\$127,300	\$213,000	-\$85,500	-\$11,500
<u>Expenditures</u>				
Appropriations	\$351,500	\$351,500	\$363,000	\$363,000
Pay Plan & Other Reserves	<u>5,600</u>	<u>11,500</u>	<u>5,800</u>	<u>11,800</u>
Total Expenditures	\$357,100	\$363,000	\$368,800	\$374,800
Closing Balance	-\$229,800	-\$150,000	-\$454,300	-\$386,300

13. If the Committee choose to maintain the current funding split but with the Governor's recommended total funding level for the agency, an increase in fees would be necessary to provide a positive ending balance. One alternative fee increase scenario which could be considered would be to increase all licenses, authorizations and registrations by \$100, as indicated below.

	<u>Current Fee</u>	<u>New Fee</u>
Single Client Lobbyist License	\$250	\$350
Multiple Client Lobbyist License	400	500
Registration of Principal	375	475
Lobbyist Authorization by Principal	125	225

14. If the above fee schedule were adopted, it is likely that Wisconsin's fees for registration of lobbyists and/or their principals would be among the highest of any state that has a fee, if not the highest. The data that is available is based on 1995 information and does not allow total comparison. However, that data, taken from the 1996 Council of State Governments *Public Integrity Annual*, indicates that for the 48 other states, 11 states (including Minnesota and Michigan) have no fee, 12 states have a registration fee only for lobbyists, and 25 states have registration fees for both lobbyists and for the lobbyists' principals. For the other states that have lobbyist registration fees, the reported fees range from a low of \$3 in Wyoming for a lobbyist's badge and \$5 annually in Rhode Island to as high as \$325 annually in New Jersey, \$300 annually in Kansas and Texas, \$250 in Kentucky and \$100 annually, for each client represented, in Alaska. Twenty-eight states have annual or biennial lobbyist fees of less than \$100.

15. Twenty-five other states also have a registration fee for principals who employ the lobbyists. Fees in these other states range from a low of \$5 annually in Rhode Island to a high of \$250 biennially in Kentucky. Twenty states have annual or biennial principal registration fees of less than \$100.

16. The Committee should also note that in a 1995 federal case decided in the Northern District Court of Georgia, the court found that that state's lobbying fee violated the First Amendment of the U.S. Constitution because the overall revenues generated from the fee exceeded the administrative costs of the lobbying regulation program and the State Ethics Commission did not justify the fee amount paid by plaintiffs on the basis of administrative cost. *Georgia State AFL-CIO, et al., v. State of Georgia Ethics Commission and George C. Reid*, CV 1:94-0103-MHS (N.D. Ga. 1995). In this case, the Georgia State AFL-CIO, a federation representing labor unions, challenged the constitutionality of a \$200 lobbyist registration fee imposed by statute and enforced by the defendants, the State Ethics Commission and its Chair. The court in deciding the case found that "while Georgia has legitimate reasons for regulating lobbyists, the fee provision of the Act violates the First Amendment because the overall revenues generated exceed the administrative costs of the program and the defendants [State Ethics Commission] have not justified the \$200 fee for registering union members on the basis of administrative cost." Based on this finding, the court ruled that the state violated the First Amendment.

17. The Georgia case as decided by the U.S. district court applies only to Georgia. However, in the event that a similar type case were to be entered into litigation in Wisconsin, the Georgia case raises the issue of whether a similar question might arise here as to the relationship between the revenues raised from lobbying regulation fees and the cost of the Ethics Board's lobby regulation activities.

18. Based on the number of licenses, registrations and authorizations actually purchased in 1995-96 and projected purchases for 1996-97, it is estimated that a \$100 increase in each of the fees would result in additional retained revenue collections of \$8,300 in 1997-98 and \$221,500 in 1998-99, assuming a January 1, 1999, effective date for the fee increases. A positive

ending balance of \$43,000 in 1998-99 and \$37,800 in 2000-01 would be estimated under this scenario, as indicated in the table below.

75% Program Revenue Funding with Fee Increase

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>
Opening Balance	\$62,800	-\$229,800	\$43,000	-\$227,800
Lobbying Fees Retained	<u>64,500</u>	<u>635,800</u>	<u>98,000</u>	<u>640,400</u>
Total Revenue	\$127,300	\$406,000	\$141,000	\$412,600
Appropriations	\$351,500	\$351,500	\$363,000	\$363,000
Pay Plan & Other Reserves	<u>5,600</u>	<u>11,500</u>	<u>5,800</u>	<u>11,800</u>
Total Expenditures	\$357,100	\$363,000	\$368,800	\$374,800
Closing Balance	-\$229,800	\$43,000	-\$227,800	\$37,800

19. If the total budgeted levels as recommended by the Governor were to be approved by the Committee but the funding split between GPR and PR were set at a 50%/50% split, the PR account balance shown in the table below would be projected. The adoption of a 50% PR funding split would require the addition of \$27,200 GPR annually above the Governor's recommended funding level.

50% Program Revenue Funding with No Fee Increase

	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>
<u>Revenues</u>				
Opening Balance	\$62,800	-\$111,000	\$89,300	-\$92,700
Lobbying Fees Retained	<u>64,500</u>	<u>442,800</u>	<u>64,500</u>	<u>442,800</u>
Total Revenues	127,300	331,800	153,800	350,100
<u>Expenditures</u>				
Appropriations	\$234,400	\$234,400	\$242,500	\$242,500
Pay Plan & Other Reserves	<u>3,900</u>	<u>8,100</u>	<u>4,000</u>	<u>8,200</u>
Total Expenditures	\$238,300	\$242,500	\$246,500	\$250,700
Closing Balance	-\$111,000	\$89,300	-\$92,700	\$99,400

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to shift based level funding of \$75,000 annually and 1.25 positions from PR to GPR funding.

2. Delete \$75,000 GPR annually and 1.25 GPR positions and instead provide \$75,000 PR annually and 1.25 PR positions to reflect an overall 25/75 split between GPR and PR funding. Also, increase the current lobby license, authorization and registration fees all by \$100, effective January 1, 1999.

<u>Alternative 2</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 REVENUE (Change to Bill)	\$25,500	\$229,800	\$255,300
1997-99 FUNDING (Change to Bill)	- \$150,000	\$150,000	\$0
1998-99 POSITIONS (Change to Bill)	- 1.25	1.25	0.00

3. Increase GPR funding and position levels and decrease PR funding and position levels by \$27,200 annually and 0.25 FTE to reflect an overall 50/50 split between GPR and PR funding.

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Bill)	\$54,400	- \$54,400	\$0
1998-99 POSITIONS (Change to Bill)	0.25	- 0.25	0.00

MO# _____

Prepared by: Tricia Collins

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

Lobbying Fees in Other States

AMOUNT OF BIENNIAL FEE	# OF STATES
\$750	WI
\$600	1
\$200	3
\$125	1
\$120	2
\$100	3
\$ 75	1
\$ 60	2
\$ 50	4
\$ 40	1
\$ 35	1
\$ 25	3
\$ 20	2
\$ 10	2
\$ 3	1
\$ 0	17

Fees for one principal registering one lobbyist for a biennium.

Information based on lobbying fees effective 1/1/97 for Wisconsin and other states fees were obtained from the COGELBlue Book, May, 1993. (Most current figures available.)

ETHICS BOARD

Increased Lobbying Fees

Motion:

Move to delete \$75,000 GPR annually and 1.25 GPR positions and instead provide \$75,000 PR annually and 1.25 PR positions to reflect an overall 25/75 split between GPR and PR (72% from lobbying fees and 3% from publications and services fees) funding. Also, increase the current lobby license, authorization and registration fees all by \$75, effective January 1, 1999.

Note: This motion would increase all current lobbying fees by \$75, effective January 1, 1999. This would result in an estimated ending balance in the lobbying fee account of \$24,700 at the end of the fiscal year 1998-99. Fees would be increased as follows:

	<u>Current Fee</u>	<u>New Fee</u>
Single Client Lobbyist License	\$250	\$325
Multiple Client Lobbyist License	400	475
Registration of Principal	375	450
Lobbyist Authorization by Principal	125	200

[Change to Bill: -\$150,000 GPR and -1.25 GPR positions, \$150,000 PR and 1.25 positions and \$20,200 GPR-Earned]

MO# 585

BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	Y	N	(A)
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
/JENSEN	(Y)	N	A
2OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A

AYE 15 NO ABS 1

ETHICS BOARD

Unclassified Attorney Position

Motion:

Move to delete one classified attorney position and create one unclassified attorney position.

Note:

Under current law, the Executive Director of the Board serves at the pleasure of the Board in the unclassified service. The other staff, including 1.0 attorney position, are appointed by the Executive Director under the classified service. This motion would change the classified attorney position to an unclassified position. The Executive Director of the Board would still appoint the person to fill the position, but under the unclassified service.

MO# 540

BURKE	Y	<u>N</u>	A
DECKER	Y	<u>N</u>	A
GEORGE	Y	N	<u>A</u>
JAUCH	Y	<u>N</u>	A
WINEKE	Y	<u>N</u>	A
SHIBILSKI	<u>Y</u>	N	A
COWLES	<u>Y</u>	N	A
PANZER	<u>Y</u>	N	A
JENSEN	<u>Y</u>	N	A
OURADA	<u>Y</u>	N	A
HARSDORF	<u>Y</u>	N	A
ALBERS	<u>Y</u>	N	A
2 GARD	<u>Y</u>	N	A
1 KAUFERT	<u>Y</u>	N	A
LINTON	<u>Y</u>	N	A
COGGS	Y	<u>N</u>	A

AYE 10 NO 5 ABS

ETHICS BOARD

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
2	Information Technology Costs

LFB Summary Items for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
4	Denial of License for Child Support Delinquency
5	Exception to Standards of Conduct for State Public Officials
6	Access to Agency Records